



For Immediate Release
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FINANCE LEADERS QUESTION IRS POLICY OUTSOURCING

New effort would let outside groups draft rules for tax agency

Washington, DC – U.S. Senators Max Baucus (D-Mont.) and Chuck Grassley (R-Iowa), Chairman and Ranking Republican Member of the Senate Finance Committee, are questioning a new Internal Revenue Service (IRS) plan to outsource the writing of some agency rules. The IRS recently announced its intention to ask “interested parties” to provide research and even draft proposals for new procedures and regulations for administering tax policy and implementing tax legislation. In letters requesting more information from the Treasury Inspector General for Tax Administration and from the IRS’s chief counsel, Baucus and Grassley expressed concern that this will allow outside groups to have undue influence on policies that affect American taxpayers.

“What’s best for taxpayers should be the IRS’s number-one concern when they make new rules for administering tax policy. I want to make sure that outside groups don’t skew the IRS’s view,” said Baucus. **“In the end, the IRS needs to run the IRS. And with \$345 billion in legally owed taxes going uncollected every year, it would seem that the IRS might need to ride closer herd on its rules, rather than farming them out.”**

Grassley said, **“We don’t need K Street lawyers writing enforcement regulations to help their clients create tax shelters. That would be worse than a camel’s nose under the tent. It would be the whole caravan. We might as well have the Justice Department let defense counsels write sentencing guidelines. If the IRS is that short on resources, the commissioner needs to tell Congress.”**

The text of the Senators’ letters follows here:

March 15, 2007

The Honorable J. Russell George, Inspector General
Treasury Inspector General for Tax Administration
1125 15th Street, N.W.
Washington, D.C. 20005

Dear Mr. George:

The Senate Finance Committee has an interest in how policies, regulations, and rulings are developed by the Department of the Treasury and the Internal Revenue Service (IRS). As Finance Committee staff raised with senior officials of the Treasury Inspector General for Tax Administration (TIGTA) several weeks ago, we want to make certain that the Treasury and the IRS are not putting special interests before the public interest when developing tax guidance. In particular, we are concerned about the use of outside parties and stakeholders in the development of policies and guidance. These concerns were heightened by the recent IRS guidance (Notice 2007-17) on this issue. In this Notice, the IRS announced the launch of a pilot program to solicit greater input from the public in the development of certain guidance projects. Under this pilot program, the IRS and Treasury would publish a notice for each guidance project selected for the program. This notice would identify research, background documents, drafts of proposed guidance and other work products, and ask interested parties to provide them.

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The Committee asks that you assess the guidance process for your respective organizations by determining:

- 1) The process and related controls within the Department of the Treasury's Office of Tax Policy for formulating the Department's tax-related policies, regulations, and rulings.
- 2) The effect of the pilot project mentioned in Notice 2007-17 on the IRS' guidance process.
- 3) The process used by the Department of the Treasury and the IRS, including obtaining input from outside stakeholders, to determine which guidance will be issued (or not issued) each year and which guidance documents have priority. We particularly want to understand the balance between priorities identified by outside stakeholders and priorities raised by IRS and Treasury officials.
- 4) The barriers to issuing new guidance, regulations, and policy.
- 5) Whether the length of time necessary to issue new guidance impedes tax administration because of a lack of specific direction on how to treat issues being considered for guidance.
- 6) Whether all interested stakeholders have equal access to the guidance process because of their degree of ability to pay a fee or otherwise underwrite the cost of drafting guidance language to be submitted to the IRS and Treasury for consideration.
- 7) The extent to which senior IRS and Treasury officials are meeting and communicating with outside stakeholders, and the extent to which the Congress and the public are fully informed through the Freedom of Information Act, the Federal Advisory Committee Act, and other means, of meetings and communications that take place when written material is not provided to the public.

Please contact [staff] with any questions concerning this request and to apprise the Committee of the status of your work.

Sincerely,

Max Baucus
Chairman

Charles Grassley
Ranking Member

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March 15, 2007

The Honorable Donald L. Korb
Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Dear Mr. Korb:

On February 28, 2007, the Internal Revenue Service (IRS) issued Notice 2007-17 announcing the IRS's intent to launch a pilot program to solicit private sector input for Treasury and IRS guidance projects. Under this pilot program, the IRS and Treasury would publish a notice for each guidance project selected for the program and ask interested parties to provide policy discussions and drafts of proposed guidance. You have been quoted in the press as expressing strong support for the program. However, other leaders in the tax community are concerned that the process would result in some practitioners and taxpayers having undue influence over government regulations that would lead to beneficial outcomes for their clients or their own tax matters.

The Committee shares these concerns and requests that you provide the following information about the pilot guidance program.

1. Describe the genesis of the pilot program and explain how it will improve tax administration compared to current guidance procedures.
2. Describe the process to select issues for inclusion in the program, including the criteria for selection.
3. Will all interested parties be allowed to submit materials? Will all materials be given equal consideration?
4. Will there be a fee or other costs associated with participation in the pilot? If participants are invited to meet with the IRS and Treasury to discuss their proposals, will they be required to pay their own travel costs and other expenses incurred in connection with the meeting?
5. Will all follow-up meetings with participants be announced to the public and open to all interested parties? Will the content of all phone conversations be made public? To what extent does the Federal Advisory Committee Act apply to this process?
6. How will you ensure that all interested parties are afforded equal opportunity to participate in the pilot process?
7. What is your response to comments that the pilot is a material change in the regulatory process and that those who submit draft proposals might exercise undue influence on the final guidance?
8. Explain your remarks at the Federal Bar Association Section of Taxation that "[T]he program could result in more than 20 additional pieces of guidance issue each year involving non-controversial, technical tax issues." Describe what IRS actions will be replaced by pilot participants and to what extent any tax issues are non-controversial.

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We would appreciate receiving your response to this request by April 1, 2007. If you have any questions, please contact [staff].

Sincerely yours,

Max Baucus
Chairman

Charles Grassley
Ranking Member

cc: The Honorable Mark W. Everson, Commissioner, Internal Revenue Service

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